

CONTRACT #4
RFS # 359.10-029

**Department of Children's
Services**

VENDOR:
Medifax EDI, LLC

REQUEST: NON-COMPETITIVE AMENDMENT

APPROVED

Commissioner of Finance & Administration

Date:

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS # 359.10-029

2) State Agency Name : Department of Children's Services

RECEIVED

APR 18 2006

EXISTING CONTRACT INFORMATION

3) Service Caption : Data Clearinghouse Services

FISCAL REVIEW

4) Contractor : Medifax EDI , LLC

5) Contract # FA-0415755

6) Contract Start Date : November 17, 2003

7) Current Contract End Date IF all Options to Extend the Contract are Exercised : June 30, 20088) Current Total Maximum Cost IF all Options to Extend the Contract are Exercised : \$2,539,764.00

PROPOSED AMENDMENT INFORMATION

9) Proposed Amendment # Four10) Proposed Amendment Effective Date : July 1, 2006
(attached explanation required if date is < 60 days after F&A receipt)11) Proposed Contract End Date IF all Options to Extend the Contract are Exercised : November 15, 200612) Proposed Total Maximum Cost IF all Options to Extend the Contract are Exercised : \$1,446,588.0013) Approval Criteria :
(select one) ☒ use of Non-Competitive Negotiation is in the best interest of the state☐ only one uniquely qualified service provider able to provide the service

14) Description of the Proposed Amendment Effects & Any Additional Service :

DCS has recently completed an analysis of the feasibility of providing the currently contracted data clearinghouse services in house. The resulting analysis demonstrates that it is feasible to purchase a commercial translator and to have DCS OIS personnel provide programming and configuration services. This will provide the State with significant cost savings and allow DCS to terminate, earlier than expected, the current contract with Medifax EDI , LLC. This amendment extends the contract term through November 15, 2006 and removes specific references to annual liabilities from the contract. The removal of such annualized language will allow DCS to roll forward funds from previous fiscal years without the necessity of increasing the maximum liability of the contract.

15) Explanation of Need for the Proposed Amendment:

While DCS will be able to begin providing these services in house, the minimal twenty-two week project completion period will take the implementation date past the current contract end date of June 30, 2006. Additionally, DCS feels it prudent to extend the contract beyond the optimal twenty-two week period by eight more weeks in the event there are unforeseen delays with expediting the project.

16) Name & Address of Contractor's Current Principal Owner(s) :
(not required if proposed contractor is a state education institution)

Emdeon Corporation
1283 Murfreesboro Road
Nashville, TN 37217

17) Documentation of Office for Information Resources Endorsement :
(required only if the subject service involves information technology)

select one:

☐

Documentation Not Applicable to this Request

☒

Documentation Attached to this Request

18) Documentation of Department of Personnel Endorsement :
(required only if the subject service involves training for state employees)

select one:

☒

Documentation Not Applicable to this Request

☐

Documentation Attached to this Request

19) Documentation of State Architect Endorsement :
(required only if the subject service involves construction or real property related services)

select one:

☒

Documentation Not Applicable to this Request

☐

Documentation Attached to this Request

20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :


DCS has not attempted to procure alternative vendors as the current vendor was awarded this contract via a competitive procurement process.

21) Justification for the Proposed Non-Competitive Amendment :

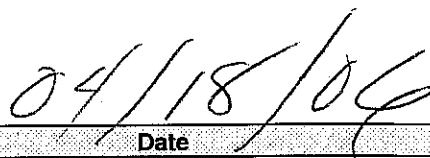
This amendment extends the current contract end term date sufficiently enough to allow time for DCS OIS to purchase and install a commercial translator, train DCS staff, and develop the necessary programming and configuration services.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)



Agency Head Signature



Date

**AMENDMENT FOUR
TO
FA-04-15755
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF CHILDREN'S SERVICES
AND
MEDIFAX-EDI, LLC**

This Contract, by and between the State of Tennessee, Department of Children's Services (DCS), hereinafter referred to as the State, and Medifax-EDI, LLC, hereinafter referred to as the Contractor, is hereby amended as follows:

1. Delete Section B.1. in its entirety and insert the following in its place:

B.1. Contract Term. This Contract shall be effective for the period commencing on November 17, 2003 and ending on November 15, 2006. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2. Delete Section C.1. in its entirety and insert the following in its place:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed One Million, Four Hundred Forty-six Thousand, Five Hundred Eighty-eight dollars (\$1,446,588.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

The other terms and conditions of this Contract not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF:

MEDIFAX-EDI, LLC.:

Signature and Title of Authorized Representative

Date

Contractor Signatory Printed Name And Title

DEPARTMENT OF CHILDREN'S SERVICES:

Viola P. Miller, Commissioner

Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. Goetz, Jr., Commissioner

Date

COMPTROLLER OF THE TREASURY:

John G. Morgan, Comptroller of the Treasury

Date

**FAX TRANSMITTAL**

8-5-DE

TO : Bill Ezell, Chief Information Officer
Office for Information Resources **FAX #** 532-0471

FROM : Steven Barlar, Program Director **FAX #** 244-8969

DATE : April 13, 2006

RFS # 359.10-029-04

RE : Procurement Endorsement — Data Clearinghouse Services

NUMBER OF FAX PAGES (including cover) : (7)

The nature and scope of service detailed in the attached service procurement document(s) appears to require Office for Information Resources (OIR) review and support, because the procurement involves information technology or information systems services.

This communication seeks to ensure that OIR is aware of the procurement and has an opportunity to review the matter. Please determine whether OIR is supportive of the procurement. If you have any questions or concerns about this matter, please call Steven Barlar at 532-2457.

Please indicate below your response to this proposed procurement, and return this communication at your earliest convenience (note the return FAX number above).

Thank you for your help.

Attachment(s) See accompanying existing Contract Scope of Services, DCS – OIS analysis and Non-Competitive Amendment Request.

OIR Endorsement :**OIR Chief Information Officer Signature**

4/16/2006

Date

CONTRACT SUMMARY SHEET

RFS Number:	359.10-029	Contract Number:	FA-04-15755- <i>83</i>
State Agency:	Department of Children's Services	Division:	Contracts Administration
Contractor		Contractor Identification Number	
Medifax EDI, LLC.		<input checked="" type="checkbox"/> V- <input type="checkbox"/> C-	V62200497265-00 <i>02</i>

Service Description
Administration- Data Processing

Contract Begin Date	Contract End Date
11-17-2003	06-30-2006

Allotment Code	Cost Center	Object Code	Fund	Grant	Grant Code	Subgrant Code
35910	117	082	11	<input checked="" type="checkbox"/> on STARS		

FY	State Funds	Federal Funds	Interdepartmental Funds	Other Funding	Total Contract Amount (including ALL amendments)
2004	\$141,435.48	\$12,404.76	\$199,571.76	\$00.00	\$353,412.00
2005	\$218,739.00	\$19,190.71	\$308,658.29	\$00.00	\$546,588.00
2006	\$218,739.00	\$19,190.71	\$308,658.29	\$00.00	\$546,588.00
Total:	\$578,913.48	\$50,786.18	\$816,888.34	\$00.00	\$1,446,588.00

CFDA #	Check the box ONLY if the answer is YES:
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State Fiscal Contact		Is the Contractor a SUBRECIPIENT? (per OMB A-133)	
Name:	Joe Cimino, Budget Director	Is the Contractor a VENDOR? (per OMB A-133)	X
Address:	7 th Floor Cordell Hull Building	Is the Fiscal Year Funding STRICTLY LIMITED?	X
Phone:	615-741-8304	Is the Contractor on STARS?	X
Procuring Agency Budget Officer Approval Signature <i>6/28/05</i>		Is the Contractor's FORM W-9 ATTACHED?	
		Is the Contractors Form W-9 Filed with Accounts?	X

COMPLETE FOR ALL AMENDMENTS (only)			Funding Certification		
Base Contract & Prior Amendments	This Amendment ONLY	Pursuant to T.C.A., Section 9-6-113, I, M. D. Goetz, Jr., Commissioner of Finance and Administration, do hereby certify that there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.			
END DATE →	06-30-05				06-30-06
FY: 2004	\$353,412.00				\$00.00
FY: 2005	\$546,588.00				\$00.00
FY: 2006					\$546,588.00
FY:					
Total	\$900,000.00	\$546,588.00	<div style="text-align: center;"> RECEIVED 2005 JUL -7 PM 1:09 COMPTROLLER'S OFFICE OFFICE OF MANAGEMENT SERVICES </div> <div style="text-align: center;"> RECEIVED 2005 SEP 21 PM 12:46 COMPTROLLER'S OFFICE OFFICE OF MANAGEMENT SERVICES </div>		

OCT 1 2005

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number FA-04-15755-

Fiscal Year	2004
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Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	GFDA #	Amount
35910	117					93.645	\$4,735.72
35910	117	082	11			93.658	\$1,661.04
35910	117	082	11			93.659	\$318.07
35910	117	082	11			93.667	\$5,689.93
						Sub Total Federal	\$12,404.76
35910	117	082	11				\$141,435.48
						Subtotal State	\$141,435.48
35910	117	082	11				\$199,571.76
						SubTotal InterDepartmental	\$199,571.76
TOTAL							\$353,412.00

C O N T R A C T S U M M A R Y S H E E T S U P P L E M E N T							
Contract Number		FA-04-15755-					
Fiscal Year		2005					
Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
35910	117					93.645	\$7,326.25
35910	117	082	11			93.658	\$2,569.63
35910	117	082	11			93.659	\$492.24
35910	117	082	11			93.667	\$8,802.59
						Sub Total Federal	\$19,190.71
35910	117	082	11				\$218,739.00
						Subtotal State	\$218,739.00
35910	117	082	11				\$308,658.29
						SubTotal InterDepartmental	\$308,658.29
TOTAL							\$546,588.00

CONTRACT SUMMARY SHEET SUPPLEMENT

FA-04-15755-

2006

Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
35910	117					93.645	\$7,326.25
35910	117	082	11			93.658	\$2,569.63
35910	117	082	11			93.659	\$492.24
35910	117	082	11			93.667	\$8,802.59
						Sub Total Federal	\$19,190.71
35910	117	082	11				\$218,739.00
						Subtotal State	\$218,739.00
35910	117	082	11				\$308,658.29
						SubTotal InterDepartmental	\$308,658.29
TOTAL							\$546,588.00

AMENDMENT THREE
TO
FA-04-15755-00
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF CHILDREN'S SERVICES
AND
MEDIFAX-EDI, LLC

This Contract, by and between the State of Tennessee, Department of Children's Services (DCS), hereinafter referred to as the State, and Medifax-EDI, LLC, hereinafter referred to as the Contractor, is hereby amended as follows:

1. Delete Section B.1. in its entirety and insert the following in its place:

B.1. Contract Term. This Contract shall be effective for the period commencing on November 17, 2003 and ending on June 30, 2006. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2. Delete Section C.1. in its entirety and insert the following in its place:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed One Million, Four Hundred Forty-six Thousand, Five Hundred, Eighty-eight dollars (\$1,446,588.00). The maximum liability for fiscal year 2004 shall not exceed Three Hundred Fifty-three Thousand, Four Hundred Twelve dollars (\$353,412.00). The maximum liability for fiscal years 2005 and 2006 shall not exceed Five Hundred Forty-six Thousand, Five Hundred, Eighty-eight dollars (\$546,588.00) per fiscal year. The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

3. Delete Section E.2. Communications and Contacts. in its entirety and insert the following in its place:

E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:
Ken Sanders, Executive Director
Finance and Program Support
Department of Children's Services
7th Floor, Cordell Hull Building
436 Sixth Avenue North

Nashville, Tennessee, 37243
Tel: 615-741-7263
Fax: 615-741-6177

The Contractor:
Judy Blade, Counsel
Medifax-EDI, LLC
1283 Murfreesboro Rd.
Nashville, TN, 37217-2421
Tel: 615-843-2500
Fax: 615-565-2024

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

The other terms and conditions of this Contract not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF:

MEDIFAX-EDI, LLC.:

Judith S. Blade, Counsel 6/13/05
Signature and Title of Authorized Representative Date

Judith S. Blade
Printed Name of Authorized Representative

DEPARTMENT OF CHILDREN'S SERVICES:

Viola P. Miller / CMS 6-29-05
Viola P. Miller, Commissioner Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. Goetz, Jr. / MS
M. D. Goetz, Jr., Commissioner Date

COMPTROLLER OF THE TREASURY:

John G. Morgan 9/26/05
John G. Morgan, Comptroller of the Treasury Date

CONTRACT SUMMARY SHEET

RFS Number:	359.10-029	Contract Number:	FA-04-15755- 02
State Agency:	Department of Children's Services	Division:	Contracts Administration
Contractor:		Contractor Identification Number:	
Medifax EDI, LLC.		<input checked="" type="checkbox"/> V- <input type="checkbox"/> C-	

Service Description

Administration- Data Processing

Contract Begin Date:	Contract End Date:
11-17-2003	06-30-2005

Allotment Code	Cost Center	Object Code	Fund	Grant	Grant Code	Subgrant Code
35910	117	082	11	<input checked="" type="checkbox"/> on STARS		

FY	State Funds	Federal Funds	Interdepartmental Funds	Other Funding	Total Contract Amount (including ALL amendments)
2004	\$141,435.48	\$12,404.76	\$199,571.76	\$00.00	\$353,412.00
2005	\$218,739.00	\$19,190.71	\$308,658.29	\$00.00	\$546,588.00
Total:	\$360,174.48	\$31,595.47	\$508,230.05	\$00.00	\$900,000.00

CFDA #	Check the box ONLY if the answer is YES:
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State Fiscal Contact	Is the Contractor a SUBRECIPIENT? (per OMB A-133)
Name: Kathy Jones, Dir., Contracts Development Address: 7 th Floor Cordell Hull Building Phone: 615-741-0581	Is the Contractor a VENDOR? (per OMB A-133)
	Is the Fiscal Year Funding STRICTLY LIMITED?

Procuring Agency Budget Officer Approval Signature	Is the Contractor on STARS?
 721-04	Is the Contractor's FORM W-9 ATTACHED?
	Is the Contractor's Form W-9 Filed with Accounts?

COMPLETE FOR ALL AMENDMENTS (only)			Funding Certification
Base Contract & Prior Amendments	This Amendment ONLY	Pursuant to T.C.A., Section 9-6-113, I, M. D. Goetz, Jr., Commissioner of Finance and Administration, do hereby certify that there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.	
END DATE →			
FY: 2004	\$00.00		
FY: 2005	FEIN/NAME CHANGE ONLY		
FY:			
FY:			
Total:	\$00.00	RECEIVED 2004 JUL 23 PM 3:00 COMPTROLLER'S OFFICE OFFICE OF MANAGEMENT SERVICES	

RECEIVED

AUG - 5 2004

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number	
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Fiscal Year	2004
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Fiscal Year	2004
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[illegible]

CONTRACT SUMMARY SHEET SUPPLEMENT							
Contract Number							
Fiscal Year		2005					
Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
35910	117					93.645	\$7,326.25
35910	117	082	11			93.658	\$2,569.63
35910	117	082	11			93.659	\$492.24
35910	117	082	11			93.667	\$8,802.59
						Sub Total Federal	\$19,190.71
35910	117	082	11				\$218,739.00
						Subtotal State	\$218,739.00
35910	117	082	11				\$308,658.29
						SubTotal InterDepartmental	\$308,658.29
TOTAL							\$546,588.00

**AMENDMENT TWO
TO
FA-04-15755-02
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF CHILDREN'S SERVICES
AND
MEDIFAX, EDI, INC.**

This Contract, by and between the State of Tennessee, Department of Children's Services (DCS), hereinafter referred to as the State, and Medifax, EDI, Inc., hereinafter referred to as the Contractor, is hereby amended as follows:

1. Add the following as Section A.13. to Section A. Scope of Services and renumber any subsequent sections as necessary:

A.13. The Contractor shall invoice DCS monthly for services provided. Such invoices shall be submitted to DCS not later than thirty (30) days after the end of the month in which service was rendered.
2. Add the following as C.3.a. to Section C.3. Payment Methodology and renumber any subsequent sections as necessary:

C.3.a. If the Contractor fails to comply with the provisions of Section A. 13. of the Scope of Services, the Contractor shall forfeit payment for those services.
3. Add the following as Section E.22. to Section E. Special Terms And Conditions and renumber any subsequent sections as necessary:

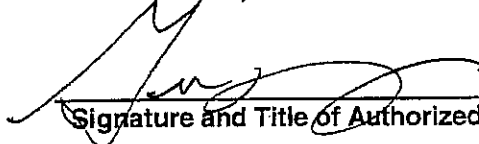
E.22. Federal Employer Identification Number. Effective December 22, 2003, the Federal Employer Identification Number of the Contractor shall be 200497265.
4. Add the following as Section E.23. to Section E. Special Terms And Conditions and renumber any subsequent sections as necessary:

E.23. Name Change. Effective December 22, 2003, all references to "Medifax, EDI, Inc." shall be deleted and replaced with "Medifax, EDI, LLC".

The other terms and conditions of this agreement not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF:

MEDIFAX EDI, LLC:



7/13/04

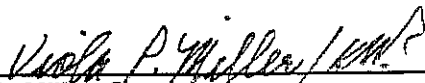
Signature and Title of Authorized Representative

Date

GEORGE LAZENBY

Printed Name of Authorized Representative

DEPARTMENT OF CHILDREN'S SERVICES:



Viola P. Miller, Commissioner

7-23-04

Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:



M. D. Goetz, Jr., Commissioner

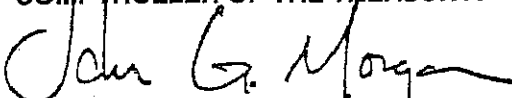
~~JUL 28 2004~~

Date



7/22/04

COMPTROLLER OF THE TREASURY:



John G. Morgan, Comptroller of the Treasury

7-28-04

Date

CONTRACT SUMMARY SHEET

RFS Number: 359.10-029		Contract Number: FA-04-15755-01	
State Agency: Department of Children's Services		Division: Contracts Administration	
Contractor: Medifax EDI, Inc.		Contractor Identification Number: V621249087	
		<input checked="" type="checkbox"/> V- <input type="checkbox"/> C-	
Service Description: Administration- Data Processing			
Contract Begin Date: 11-17-2003		Contract End Date: 06-30-2005	
Allotment Code: 35910	Cost Center: 117	Object Code: 082	Fund: 11
		<input checked="" type="checkbox"/> on STARS	
FY:	State Funds	Federal Funds	Total Contract Amount (including ALL amendments)
2004	\$141,435.48	\$12,404.76	\$353,412.00
2005	\$218,739.00	\$19,190.71	\$546,588.00
Total:	\$360,174.48	\$31,595.47	\$900,000.00
CFDA #		Check the box ONLY if the answer is YES:	
State Fiscal Contact:		Is the Contractor a SUBRECIPIENT? (per OMB A-133)	
Name: Paul Vander Meer		Is the Contractor a VENDOR? (per OMB A-133) X	
Address: 7 th Floor Cordell Hull Building		Is the Fiscal Year Funding STRICTLY LIMITED? X	
Phone: 615-741-8304		Is the Contractor on STARS? X	
Procuring Agency Budget Officer Approval Signature: <i>Paul Vander Meer 3/17/04</i>		Is the Contractor's FORM W-9 ATTACHED?	
		Is the Contractor's Form W-9 Filled with Accounts? X	
COMPLETE FOR ALL AMENDMENTS (only)		Funding Certification	
Base Contract & Prior Amendments	This Amendment ONLY	Pursuant to T.C.A., Section 9-6-113, I, M. D. Goetz, Jr., Commissioner of Finance and Administration, do hereby certify that there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.	
END DATE →			
FY:			
FY:			
FY:			
FY:			
Total:		<div style="text-align: center;"> RECEIVED MAR 19 AM 11:11 CLERK'S OFFICE OF MANAGEMENT SERVICES </div>	

MAR 24 2004

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number	
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Fiscal Year	2004
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Alignment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
35910	117					93.645	\$4,735.72
35910	117	082	11			93.658	\$1,661.04
35910	117	082	11			93.659	\$318.07
35910	117	082	11			93.667	\$5,689.93
						Sub Total Federal	\$12,404.76
35910	117	082	11				\$141,435.48
						Subtotal State	\$141,435.48
35910	117	082	11				\$199,571.76
						SubTotal InterDepartmental	\$199,571.76
TOTAL							\$353,412.00

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number	
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Fiscal Year	2005
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[illegible]

AMENDMENT ONE
TO
FA-04-15755
BETWEEN THE STATE OF TENNESSEE
DEPARTMENT OF CHILDREN'S SERVICES
AND
MEDIFAX EDI, INC.

This Contract, by and between the State of Tennessee, Department of Children's Services (DCS), hereinafter referred to as the State, and Medifax EDI, Inc., hereinafter referred to as the Contractor, is hereby amended as follows:

1. Delete Section C.3. Payment Methodology in its entirety and insert the following in its place:

C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

******Implementation Rates only apply to initial implementation costs and will not be applicable to future version changes of standard formats***

SERVICE TYPE/UNIT	Implementation Rate Per Type of Standard Format
Health care claims or equivalent encounter data (X12 837-P (Professional))	\$59,000.00
Health care claims or equivalent encounter data (X12 837-I (Institutional))	\$500.00
Health care claims or equivalent encounter data (X12 837 -D (Dental))	\$500.00
Health care payments and remittance advice (X12 835)	\$64,000.00
Coordination of benefits (potentially multiple transactions, but primarily (X12 837))	\$500.00
Health care claim status inquiries (X12 276)	\$4,000.00
Health care claim status response (X12 277)	\$4,000.00
Health Plan enrollment and disenrollment (X12 834)	\$29,000.00
Eligibility verification inquiries (x12 270)	\$18,000.00
Eligibility verification response (x12 271)	\$67,500.00
Health insurance premium payments (X12 820)	\$500.00
Referral certification and authorizations (X12 278)	\$2,500.00
Health claims attachments (X12 277 Model 4020) & (X12 275 Model 4030)	\$500.00

Model 4030)	
National Council for Prescription Drug Programs (NCPDP)	\$500.00

*****Implementation Rates only apply to initial implementation costs and will not be applicable to future version changes of standard formats**

<u>SERVICE TYPE/UNIT</u>	<u>Operational Transmission Rate Per Transaction</u>
Health care claims or equivalent encounter data (X12 837- P (Professional))	\$.30
Health care claims or equivalent encounter data (X12 837- I (Institutional))	\$.30
Health care claims or equivalent encounter data (X12 837- D (Dental))	\$.30
Health care payments and remittance advice (X12 835)	\$.12
Coordination of benefits (potentially multiple transactions, but primarily (X12 837)	\$.30
Health care claim status inquiries (X12 276)	\$.12
Health care claim status response (X12 277)	\$.12
Health Plan enrollment and disenrollment (X12-834)	\$.35
Eligibility verification inquiries (x12 270)	\$.20
Eligibility verification response (x12 271)	\$.20
Health insurance premium payments (X12 820)	\$.40
Referral certification and authorizations (X12 278)	\$.30
Health claims attachments (X12 277 Model 4020) & (X12 275 Model 4030)	\$1.00
National Council for Prescription Drug Programs (NCPDP)	\$.25

<u>SERVICE TYPE/UNIT</u>	<u>Rate per Trading Partner Agreement Completion</u>
Execution of Trading Partner Agreement	\$495.00

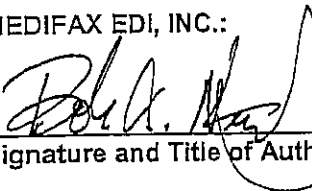
The Contractor shall submit monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated.

In the event the Contractor is unable to complete any of the Service Unit Implementations due to the inability of the State to accept transactions, the Contractor shall be compensated at a percentage of completion, mutually agreed upon by the Contractor and DCS.

The other terms and conditions of this Contract not amended hereby shall remain in full force and effect.

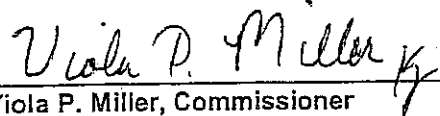
IN WITNESS WHEREOF:

MEDIFAX EDI, INC.:

 VP-FINANCE
Signature and Title of Authorized Representative

MARCH 12, 2004
Date

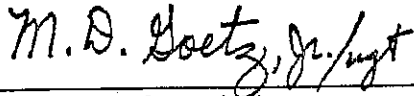
DEPARTMENT OF CHILDREN'S SERVICES:


Viola P. Miller, Commissioner

3-17-04
Date

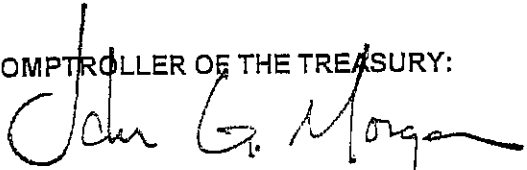
APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:


M. D. Goetz, Jr., Commissioner

MAR 19 2004
Date

COMPTROLLER OF THE TREASURY:


John G. Morgan, Comptroller of the Treasury

3/22/04
Date

CONTRACT SUMMARY SHEET

RES Number:	359.10-029	Contract Number:	FA 04-15755-00
State Agency:	Department of Children's Services	Division:	Contracts Administration
Contractor:		Contractor Identification Number:	
Medifax EDI, Inc.		<input checked="" type="checkbox"/> V- <input type="checkbox"/> C-	V621249087

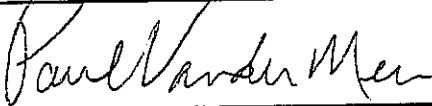
Service Description:	Administration- Data Processing
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Contract Begin Date:	11-17-2003	Contract End Date:	06-30-2005
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Allotment Code:	Cost Center:	Object Code:	Fund:	Grant:	Grant Code:	Subgrant Code:
35910	117	082	11	<input checked="" type="checkbox"/> on STARS		

FY	State Funds	Federal Funds	Interdepartmental Funds	Other Funding	Total Contract Amount (including ALL amendments)
2004	\$141,435.48	\$12,404.76	\$199,571.76	\$00.00	\$353,412.00
2005	\$218,739.00	\$19,190.71	\$308,658.29	\$00.00	\$546,588.00
Total:	\$360,174.48	\$31,595.47	\$508,230.05	\$00.00	\$900,000.00

CFDA #		Check the box ONLY if the answer is YES:
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State Fiscal Contact		Is the Contractor a SUBRECIPIENT? (per OMB A-133)	
Name:	Paul Vander Meer	Is the Contractor a VENDOR? (per OMB A-133)	X
Address:	7 th Floor Cordell Hull Building	Is the Fiscal Year Funding STRICTLY LIMITED?	X
Phone:	615-741-8304	Is the Contractor on STARS?	X
Procuring Agency Budget Officer Approval Signature		Is the Contractor's FORM W-9 ATTACHED?	
 11/13/03		Is the Contractor's Form W-9 Filed with Accounts?	X

COMPLETE FOR ALL AMENDMENTS (only)		
	Base Contract & Prior Amendments	This Amendment ONLY
END DATE →		
FY:		
FY:		
FY:		
FY:		
FY:		
Total:		

Funding Certification Pursuant to T.C.A., Section 9-6-113, I, M. D. Goetz, Jr., Commissioner of Finance and Administration, do hereby certify that there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.

NOV 26 2003

DIRECTOR OF ACCOUNTS

 RECEIVED
 NOV 24 PM 2:26
 OFFICE OF THE
 COMPTROLLER
 OF THE
 TREASURY

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number:	
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Fiscal Year	2004
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Fiscal Year	2004
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Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
35910	117					93.645	\$4,735.72
35910	117	082	11			93.658	\$1,661.04
35910	117	082	11			93.659	\$318.07
35910	117	082	11			93.667	\$5,689.93
						Sub Total Federal	\$12,404.76
35910	117	082	11				\$141,435.48
						Subtotal State	\$141,435.48
35910	117	082	11				\$199,571.76
						SubTotal InterDepartmental	\$199,571.76
TOTAL							\$353,412.00

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number	
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Fiscal Year	2005
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[illegible]

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF CHILDREN'S SERVICES
AND
MEDIFAX EDI, INC.**

This Contract, by and between the State of Tennessee, Department of Children's Services (DCS), hereinafter referred to as the "State" and Medifax, EDI, Inc., hereinafter referred to as the "Contractor," is for the provision of data clearinghouse services, as further defined in the "SCOPE OF SERVICES."

The Contractor is a for-profit corporation. The Contractor's address is:

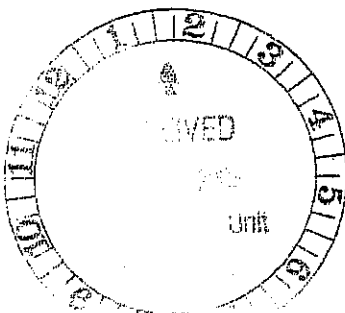
1283 Murfreesboro Rd.
Nashville, TN, 37217-2421

The Contractor's place of incorporation or organization is Tennessee.

A. SCOPE OF SERVICES:

The Contractor shall provide the following services:

- A.1. The Contractor shall receive any of the data or sets of data elements from DCS and map these to the ANSI X12N electronic transaction sets (version 4010 or greater versions approved under Health Insurance Portability and Accountability Act (HIPAA)) for transmission to Providers, health plans or other entities participating in the exchange of data with DCS hereinafter referred to as "Trading Partners" specified by DCS. The Contractor shall, upon mutual agreement between DCS and the Contractor, derive a portion of the data elements for the transactions.
- A.2. The Contractor shall receive HIPAA compliant transactions from Trading Partners in the ANSI X12N electronic transaction sets, store the received transactions, strip extraneous data from received transactions, cross-walk the transactions to the DCS systems data formats, receive data from the DCS systems, crosswalk the information back to the stored data and transmit the appropriate HIPAA transaction to the designated Participant.
- A.3. The Contractor shall utilize all versions of the CMS approved Standard Transactions adopted under HIPAA. CMS Standards and Transactions adopted by HIPAA that will be conducted by the Contractor include, at a minimum:
- American National Standards Institute (ANSI) ASC X12N Standards, Version 4010, 4020, 4030;
 - Health care claims or equivalent encounter data (X12 837 Professional-Institutional-Dental (P-I-D));
 - Health care payments and remittance advice (X12 835);
 - Coordination of benefits (potentially multiple transactions, but primarily (X12 837);
 - Health care claim status inquiries (X12 276);
 - Health care claim status response (X12 277);
 - Health Plan enrollment and disenrollment (X12 834);
 - Eligibility verification inquiries (x12 270);



- Eligibility verification response (X12 271);
 - Health insurance premium payments (X12 820);
 - Referral certification and authorizations (X12 278);
 - Health claims attachments (X12 277 Model 4020) & (X12 275 Model 4030);
 - National Council for Prescription Drug Programs (NCPDP).
- A.4. The Contractor shall provide an experienced Project Manager and Project Team, who shall assist DCS in transaction remediation activities. These individuals shall be responsible for the completion of all tasks during the engagement including, but not limited to the following:
- A.4.a meet with State Agency Project Manager regularly, as requested by the State Project Manager;
 - A.4.b coordinate all necessary activities between the Contractor's Project Team and the DCS Project Team;
 - A.4.c maintain status reports; at intervals specified by the DCS Agency Project Manager
 - A.4.d document critical decisions made and actions taken;
 - A.4.e process and maintain all necessary records;
 - A.4.f disseminate all pertinent project information and materials to the appropriate parties;
 - A.4.g assist the DCS Project Manager in preparation for presentations to executive management staff and other government officials, as appropriate;
 - A.4.h participate in the presentations to executive level staff and other government officials.
- A.5. Deliver an Implementation Project Plan to DCS within ten (10) business days after the Contract start date. The Project Plan will provide a clear road map of tasks, resources, time frame requirements, communications, risks, and strategy necessary to reach compliance with the Transactions and Code Sets Rule. An Implementation Project Plan shall consist of, but will not be limited to, the following:
- A.5.a detailed implementation and staffing plans for the implementation strategy;
 - A.5.b a project timeline for implementation within the required timeframes;
 - A.5.c a strategy for configuring network connectivity to DCS infrastructure;
- A.6. The Contractor shall develop a companion guide for each HIPAA Transaction implemented by DCS to be used as a supplement to the HIPAA Implementation Guides. The Companion Guide will describe the technical interface environment with the Contractor, including connectivity requirements and protocols, and electronic interchange procedures. The Companion Guide will also provide specific information on the fields and values required for transactions sent to or received from DCS. The Companion Guide will be intended to be supplemental to and NOT a replacement for the standard Implementation Guide for each transaction set.
- A.7. The Workgroup for Electronic Data Interchange (WEDI), through a collaborative healthcare industry effort called the Strategic National Implementation Process (SNIP), has recommended seven types of transaction testing. The Contractor shall develop a Test Plan that outlines testing efforts with DCS and each Participant according to these

recommendations. These recommendations can be found at <http://www.wedi.org/snip/>. The Contractor will need to access the appropriate document at the website, click on SNIP Work Products, then click on "Transactions White Papers", and locate the White Paper entitled, Testing and Certification White Paper, dated 08-01-02.

- A.8. The Contractor shall develop Trading Partner Agreements (TPA) between DCS and its Trading Partners by utilizing an approved TPA template provided by DCS. The Clearinghouse will seek DCS approval if negotiations require a change in the template's language. The Trading Partner Agreement will include, at a minimum:
- A.8.a communication methods;
 - A.8.b submitter/receiver IDs;
 - A.8.c transmission frequency;
 - A.8.d what transactions will be exchanged;
 - A.8.e what X12N version will be utilized;
 - A.8.f allowable specification to data element usage, values, situational definition, etc., as agreed to by the Trading Partner and DCS.
- A.9. The Contractor shall fully comply with the HIPAA Privacy and Security laws as a covered entity subject to HIPAA. As such, the Contractor agrees to:
- A.9.a at the request of DCS, make available an accounting of confidential information disclosed by the Contractor and their Business Associates;
 - A.9.b not disclose confidential information unless federal or state law permits the disclosure. The Contractor will use such information solely for purposes of or as provided in this contract;
 - A.9.c protect the confidentiality of such confidential information with the same degree of care that it exercises with respect to its own information of like import, but in no event less than reasonable care, and utilize appropriate safeguards and otherwise exercise reasonable precautions to prevent the unauthorized disclosure of confidential information, and to ensure that its employees, agents and sub-contractors also comply with these provisions;
 - A.9.d enter into a Business Associate Agreement (BAA), with Privacy and Security provisions, with DCS and with other Trading Partners as required by HIPAA;
 - A.9.e agree to inform DCS of all subcontractors and Business Associates that will be handling DCS protected health information (PHI), in any media, and to affirm that each such subcontractor meets or exceeds the Contractor's own privacy and security standards with respect to HIPAA; similarly, to notify DCS when new subcontractors are added that will handle DCS PHI and to affirm the same about them;
 - A.9.f agree to report privacy and security incidents by the Contractor or its subcontractors to the DCS, Project Manager, within 5 business days of occurrence according to a severity-prioritized reporting protocol to be negotiated between the clearinghouse and DCS;
 - A.9.g provide DCS with an overview of the Contractor's information security program to confirm that the Security Rule is being met; agree to satisfy queries from DCS seeking clarification of part or parts of the overview;

- A.9.h agree to negotiate, develop, and/or provide an agreed, tested, secure means of data transmission between DCS and the Contractor that meets DCS standards for secure transmission of confidential data over public network(s);
- A.9.i maintain all data maps, crosswalk plans, and all other materials developed in the course of implementation and testing as the property of DCS, and deliver such property to DCS in the event that DCS must, at its own discretion A) terminate the BAA, or B) if termination is not feasible at that time, report material violations of the Privacy and Security contract to the Secretary of US DHHS as specified under HIPAA. The DCS Project Manager shall specify terms of delivery.
- A.10. The Contractor shall provide network support to all Trading Partners for purposes of successfully exchanging designated transactions with DCS. Network support will include:
 - A.10.a support and help desk services to network Trading Partners between 7:00 a.m. and 5:00 p.m. (Central Standard Time), Monday through Friday, excluding holidays, and limited support services from 8:00 a.m. to 2:00 p.m. (Central Standard Time) on holidays, weekends, and off hours). Limited support services shall include, at a minimum, an acknowledgement of the request or concern and a timeframe in which a resolution will be sought;
 - A.10.b make available to DCS and Trading Partners, network access on a twenty-four (24) hour, seven (7) days a week basis;
 - A.10.c maintain network access ninety-nine percent (99%) of the time with adequate notification to DCS and Trading Partners of scheduled network maintenance as determined by the Project Manager or his/her designee.
- A.11. The Contractor shall provide to DCS, post-Implementation Monthly Progress Reports containing statistical information on the following:
 - A.11.a number of submitters;
 - A.11.b number of transactions;
 - A.11.c type of transactions;
 - A.11.d transaction error rates;
 - A.11.e network operations percentages.
- A.12. State Responsibilities.
 - A.12.a DCS shall coordinate communications and act as liaison between Trading Partners and the Contractor;
 - A.12.b DCS shall provide all available relevant documentation on current DCS systems local code crosswalks in a timely, responsive manner;
 - A.12.c DCS shall provide information regarding DCS Medicaid billing and processing procedures;
 - A.12.d DCS shall monitor the Contractor's progress through a combination of progress reports, weekly meetings, or work plan updates;
 - A.12.e DCS shall assist in the development of the required companion guides;
 - A.12.f Security standards may be changed from time to time by agreement between DCS and the Contractor. Such changes may reflect the availability of new equipment, systems or functionality, changes in applicable law, or other circumstances affecting the network or the services. Changes will be effective thirty (30) days following adoption, unless an earlier date is agreed upon where reasonably necessary to address legal requirements, network security or exigent circumstances.

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on November 17, 2003 and ending on June 30, 2005. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.
- B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that the State notifies the Contractor in writing of its intention to do so at least thirty (30) days prior to the contract expiration date. An extension of the term of this Contract will be effected through an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the State's maximum liability will also be effected through an amendment to the Contract and shall be based upon rates provided for in the original contract.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Nine Hundred Thousand dollars (\$900,000.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The Service Rates and the Maximum Liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

******Implementation Rates only apply to initial implementation costs and will not be applicable to future version changes of standard formats***

<u>SERVICE TYPE/UNIT</u>	<u>Implementation Rate Per Type of Standard Format</u>
Health care claims or equivalent encounter data (X12 837-P (Professional))	\$59,000.00
Health care claims or equivalent encounter data (X12 837-I (Institutional))	\$500.00
Health care claims or equivalent encounter data (X12 837 -D (Dental))	\$500.00
Health care payments and remittance advice (X12 835)	\$64,000.00
Coordination of benefits (potentially multiple transactions, but primarily (X12 837)	\$500.00
Health care claim status inquiries (X12 276)	\$4,000.00
Health care claim status response (X12 277)	\$4,000.00
Health Plan enrollment and disenrollment (X12 834)	\$29,000.00
Eligibility verification inquiries (x12 270)	\$18,000.00
Eligibility verification response (x12 271)	\$67,500.00
Health insurance premium payments (X12 820)	\$500.00
Referral certification and authorizations (X12 278)	\$2,500.00
Health claims attachments (X12 277 Model 4020) & (X12 275 Model 4030)	\$500.00
National Council for Prescription Drug Programs (NCPDP)	\$500.00

***Implementation Rates only apply to initial implementation costs and will not be applicable to future version changes of standard formats

<u>SERVICE TYPE/UNIT</u>	<u>Operational Transmission Rate Per Transaction</u>
Health care claims or equivalent encounter data (X12 837- P (Professional))	\$.30
Health care claims or equivalent encounter data (X12 837- I (Institutional))	\$.30
Health care claims or equivalent encounter data (X12 837- D (Dental))	\$.30
Health care payments and remittance advice (X12 835)	\$.12
Coordination of benefits (potentially multiple transactions, but primarily (X12 837)	\$.30

Health care claim status inquiries (X12 276)	\$.12
Health care claim status response (X12 277)	\$.12
Health Plan enrollment and disenrollment (X12 834)	\$.35
Eligibility verification inquiries (x12 270)	\$.20
Eligibility verification response (x12 271)	\$.20
Health insurance premium payments (X12 820)	\$.40
Referral certification and authorizations (X12 278)	\$.30
Health claims attachments (X12 277 Model 4020) & (X12 275 Model 4030)	\$1.00
National Council for Prescription Drug Programs (NCPDP)	\$.25

<u>SERVICE TYPE/UNIT</u>	<u>Rate per Trading Partner Agreement Completion</u>
Execution of Trading Partner Agreement	\$495.00

The Contractor shall submit monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.

- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
-
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall

post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

- D.8. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.9. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.13. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.14. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising

therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.

- D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:
 Wendy VanSickle
 Department of Children's Services
 Information Resources
 14th Floor, Andrew Jackson Building
 500 Deaderick Street
 Nashville, Tennessee, 37242
 Tel: 615-253-1008
 Fax: 615-253-1667

The Contractor:
 Jeffrey A. Fadler, Executive Vice President
 EDI Medifax, Inc.
 1283 Murfreesboro Rd.
 Nashville, TN, 37217-2421
 Tel: 615-843-2500
 Fax: 615-565-2853

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30

p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.4. Breach. A party shall be deemed to have breached the Contract if any of the following occurs:

- failure to perform in accordance with any term or provision of the Contract;
- partial performance of any term or provision of the Contract;
- any act prohibited or restricted by the Contract, or
- violation of any warranty.

For purposes of this contract, these items shall hereinafter be referred to as a "Breach."

a. Contractor Breach— The State shall notify Contractor in writing of a Breach.

- (1) In event of a Breach by Contractor, the state shall have available the remedy of Actual Damages and any other remedy available at law or equity.
- (2) Liquidated Damages— In the event of a Breach, the State may assess Liquidated Damages. The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The parties agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for a Breach by Contractor as said amounts are likely to be uncertain and not easily proven. Regardless of such uncertainty, Contractor and State agree that the State may withhold as liquidated damages, Three Hundred Fifty Dollars, (\$350.00) per day until the Contractor cures the breach, the State exercises its option to declare a partial default, or the State terminates the contract. Such Amount represents the costs and efforts to necessary to procure an alternate vendor(s) to provide the defaulted service, and/or facilitate Contract compliance by the Contractor. Contractor hereby represents and covenants it has carefully reviewed the Liquidated Damages and agree that said amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of Breach, and are a reasonable estimate of the damages that would occur from a Breach. It is hereby agreed between the parties that the Liquidated Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the liquidated damage amount is in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or other section of this Contract.

The State may continue to withhold the Liquidated Damages or a portion thereof until the Contractor cures the Breach, the State exercises its option to declare a Partial Default, or the State terminates the Contract. The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity; provided, however, Contractor shall receive a credit for said Liquidated Damages previously withheld except in the event of a Partial Default.

- (3) Partial Default— In the event of a Breach, the State may declare a Partial Default. In which case, the State shall provide the Contractor written notice of: (1) the date which Contractor shall terminate providing the service associated with the Breach; and (2) the date the State will begin to provide the service associated with the Breach. Notwithstanding the foregoing, the State may revise the time periods contained in the notice written to the Contractor.

In the event the State declares a Partial Default, the State may withhold, together with any other damages associated with the Breach, from the amounts due the Contractor the greater of: (1) amounts which would be paid the Contractor to provide the defaulted service; or (2) the cost to the State of providing the defaulted service, whether said service is provided by the State or a third party. To determine the amount the Contractor is being paid for any particular service, the Department shall be entitled to receive within five (5) days any requested material from Contractor. The State shall make the final and binding determination of said amount.

The State may assess Liquidated Damages against the Contractor for any failure to perform which ultimately results in a Partial Default with said Liquidated Damages to cease when said Partial Default is effective. Upon Partial Default, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount. Contractor agrees to cooperate fully with the State in the event a Partial Default is taken

- (4) Contract Termination— In the event of a Breach, the State may terminate the Contract immediately or in stages. The Contractor shall be notified of the termination in writing by the State. Said notice shall hereinafter be referred to as Termination Notice. The Termination Notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that the Contractor shall cease operations under this Contract in stages. In the event of a termination, the State may withhold any amounts which may be due Contractor without waiver of any other remedy or damages available to the State at law or at equity. The Contractor shall be liable to the State for any and all damages incurred by the State and any and all expenses incurred by the State which exceed the amount the State would have paid Contractor under this Contract. Contractor agrees to cooperate with the State in the event of a Contract Termination or Partial Takeover.

- b. State Breach— In the event of a Breach of contract by the State, the Contractor shall notify the State in writing within 30 days of any Breach of contract by the

State. Said notice shall contain a description of the Breach. Failure by the Contractor to provide said written notice shall operate as an absolute waiver by the Contractor of the State's Breach. In no event shall any Breach on the part of the State excuse the Contractor from full performance under this Contract. In the event of Breach by the State, the Contractor may avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Contractor to give the State written notice and opportunity to cure as described herein operates as a waiver of the State's Breach. Failure by the Contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear such claim within one (1) year of the written notice of Breach shall operate as a waiver of said claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by the Contractor.

- E.5. Partial Takeover. The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in Breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- E.6. State Ownership of Work Products. The State shall have all ownership right, title, and interest, including ownership of copyright, in all work products created, designed, developed, derived, documented, installed, or delivered to the State under this Contract. The State shall have royalty-free and unlimited rights to use, disclose, reproduce, or publish, for any purpose whatsoever, all said work products. The Contractor shall furnish such information and data upon request of the State, in accordance with the Contract and applicable State law.

- E.7. Performance Bond. Upon approval of the Contract by all appropriate State officials in accordance with applicable State laws and regulations, the Contractor shall furnish a performance bond in the amount equal to Two Hundred Fifty Thousand Dollars (\$250,000.00), guaranteeing full and faithful performance of all undertakings and obligations under this Contract for the initial Contract term and all extensions thereof. The bond shall be in the manner and form prescribed by the State and must be issued through a company licensed to issue such a bond in the State of Tennessee.

The Contractor shall obtain the required performance bond in form and substance acceptable to the State and provide it to the State no later than November 3, 2003. Failure to provide the performance bond prior to the deadline as required shall result in contract termination.

In lieu of a performance bond, a surety deposit, in the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00), may be substituted if approved by the State prior to its submittal.

- E.8. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, et. seq., shall be printed unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).
- E.9. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:
- a. The Contract document and its attachments
 - b. All Clarifications and addenda made to the Contractor's Proposal
 - c. The Request for Proposal and its associated amendments
 - d. Technical Specifications provided to the Contractor
 - e. The Contractor's Proposal

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

- E.10. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

- E.11. Public Funding Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Contractor relative to this Contract shall include the statement, "This project is funded under an agreement with the State of Tennessee." Any such notices by the Contractor shall be approved by the State.
- E.12. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.
- E.13. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical

standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.14. Copyrights and Patents. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State for infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract. In any such action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any final judgment for infringement. The Contractor further agrees it shall be liable for the reasonable fees of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State. The State shall give the Contractor written notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof.

- E.15. Public Accountability. If this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor agrees to display a sign stating:

"NOTICE: This Contractor is a recipient of taxpayer funding. If you observe an employee engaging in any activity which you consider to be illegal or improper, please call the State Comptroller's toll free hotline: 1-800-232-5454"

Said sign shall be displayed in a prominent place, located near the passageway(s) through which the public passes to receive State funded services.

- E.16. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.

- E.17. Date/Time Hold Harmless. As required by *Tennessee Code Annotated*, Section 12-4-118, the contractor shall hold harmless and indemnify the State of Tennessee; its officers and employees; and any agency or political subdivision of the State for any breach of contract caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.
- E.18. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by *Tennessee Code Annotated*, Section 8-6-106.

- E.19. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System, provides that if a retired member returns to State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to the Tennessee Consolidated Retirement System the amount of retirement benefits the Contractor received from the Retirement System during the period of this Contract.
- E.20. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

- c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.

E.21. HIPAA Compliance. Contractor warrants to the State that it is familiar with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this contract. Contractor warrants that it will cooperate with the State in the course of performance of the contract so that both parties will be in compliance with HIPAA, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations. Contractor will sign any documents that are reasonably necessary to keep the State and Contractor in compliance with HIPAA, including but not limited to business associate agreements.

IN WITNESS WHEREOF:

MEDIFAX EDI, INC.:


 Signature and Title of Authorized Representative

 11/11/03
 Date

 JEFFREY A. FADLER EXECUTIVE VICE PRESIDENT
 Printed Name of Authorized Representative

DEPARTMENT OF CHILDREN'S SERVICES:


 Michael J. Miller, Commissioner

 11/17/03
 Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:


 M. D. Goetz, Jr., Commissioner

 NOV 24 2003
 Date

COMPTROLLER OF THE TREASURY


 John G. Morgan, Comptroller of the Treasury

 11/25/03
 Date